

COMMITTEE ON TRANSPORTATION

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1037

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 8-341, Arizona Revised Statutes, is amended to read:

8-341. Disposition and commitment; definitions

A. After receiving and considering the evidence on the proper disposition of the case, the court may enter judgment as follows:

1. It may award a delinquent juvenile:

(a) To the care of the juvenile's parents, subject to the supervision of a probation department.

(b) To a probation department, subject to any conditions the court may impose, including a period of incarceration in a juvenile detention center of not more than one year.

(c) To a reputable citizen of good moral character, subject to the supervision of a probation department.

(d) To a private agency or institution, subject to the supervision of a probation officer.

(e) To the department of juvenile corrections.

(f) To maternal or paternal relatives, subject to the supervision of a probation department.

(g) To an appropriate official of a foreign country of which the juvenile is a foreign national who is unaccompanied by a parent or guardian in this state to remain on unsupervised probation for at least one year on the condition that the juvenile cooperate with that official.

2. It may award an incorrigible child:

(a) To the care of the child's parents, subject to the supervision of a probation department.

(b) To the protective supervision of a probation department, subject to any conditions the court may impose.

1 (c) To a reputable citizen of good moral character, subject to the
2 supervision of a probation department.

3 (d) To a public or private agency, subject to the supervision of a
4 probation department.

5 (e) To maternal or paternal relatives, subject to the supervision of a
6 probation department.

7 B. If a juvenile is placed on probation pursuant to this section, the
8 period of probation may continue until the juvenile's eighteenth birthday,
9 except that the term of probation shall not exceed one year if all of the
10 following apply:

11 1. The juvenile is not charged with a subsequent offense.

12 2. The juvenile has not been found in violation of a condition of
13 probation.

14 3. The court has not made a determination that it is in the best
15 interests of the juvenile or the public to require continued
16 supervision. The court shall state by minute entry or written order its
17 reasons for finding that continued supervision is required.

18 4. The offense for which the juvenile is placed on probation does not
19 involve the discharge, use or threatening exhibition of a deadly weapon or
20 dangerous instrument or the intentional or knowing infliction of serious
21 physical injury on another.

22 5. The offense for which the juvenile is placed on probation does not
23 involve a violation of title 13, chapter 14 or 35.1.

24 6. Restitution ordered pursuant to section 8-344 has been made.

25 C. If a juvenile is adjudicated as a first time felony juvenile
26 offender, the court shall provide the following written notice to the
27 juvenile:

28 You have been adjudicated a first time felony juvenile offender.

29 You are now on notice that if you are adjudicated of another offense
30 that would be a felony offense if committed by an adult and if you
31 commit the other offense when you are fourteen years of age or older,
32 you will be placed on juvenile intensive probation, which may include

1 home arrest and electronic monitoring, or you may be placed on juvenile
2 intensive probation and may be incarcerated for a period of time in a
3 juvenile detention center, or you may be committed to the department of
4 juvenile corrections or you may be prosecuted as an adult. If you are
5 convicted as an adult of a felony offense and you commit any other
6 offense, you will be prosecuted as an adult.

7 D. If a juvenile is fourteen years of age or older and is adjudicated
8 as a repeat felony juvenile offender, the juvenile court shall place the
9 juvenile on juvenile intensive probation, which may include home arrest and
10 electronic monitoring, may place the juvenile on juvenile intensive
11 probation, which may include incarceration for a period of time in a juvenile
12 detention center, or may commit the juvenile to the department of juvenile
13 corrections pursuant to subsection A, paragraph 1, subdivision (e) of this
14 section for a significant period of time.

15 E. If the juvenile is adjudicated as a repeat felony juvenile
16 offender, the court shall provide the following written notice to the
17 juvenile:

18 You have been adjudicated a repeat felony juvenile offender. You
19 are now on notice that if you are arrested for another offense that
20 would be a felony offense if committed by an adult and if you commit
21 the other offense when you are fifteen years of age or older, you will
22 be tried as an adult in the criminal division of the superior court.
23 If you commit the other offense when you are fourteen years of age or
24 older, you may be tried as an adult in the criminal division of the
25 superior court. If you are convicted as an adult, you will be
26 sentenced to a term of incarceration. If you are convicted as an adult
27 of a felony offense and you commit any other offense, you will be
28 prosecuted as an adult.

29 F. The failure or inability of the court to provide the notices
30 required under subsections C and E of this section does not preclude the use
31 of the prior adjudications for any purpose otherwise permitted.

1 G. Except as provided in subsection S of this section, after
2 considering the nature of the offense and the age, physical and mental
3 condition and earning capacity of the juvenile, the court shall order the
4 juvenile to pay a reasonable monetary assessment if the court determines that
5 an assessment is in aid of rehabilitation. If the director of the department
6 of juvenile corrections determines that enforcement of an order for monetary
7 assessment as a term and condition of conditional liberty is not
8 cost-effective, the director may require the youth to perform an equivalent
9 amount of community restitution in lieu of the payment ordered as a condition
10 of conditional liberty.

11 H. If a child is adjudicated incorrigible, the court may impose a
12 monetary assessment on the child of not more than one hundred fifty dollars.

13 I. A juvenile who is charged with unlawful purchase, possession or
14 consumption of spirituous liquor is subject to section 8-323. The monetary
15 assessment for a conviction of unlawful purchase, possession or consumption
16 of spirituous liquor by a juvenile shall not exceed five hundred dollars.
17 The court of competent jurisdiction may order a monetary assessment or
18 equivalent community restitution.

19 J. The court shall require the monetary assessment imposed under
20 subsection G or H of this section on a juvenile who is not committed to the
21 department of juvenile corrections to be satisfied in one or both of the
22 following forms:

23 1. Monetary reimbursement by the juvenile in a lump sum or installment
24 payments through the clerk of the superior court for appropriate
25 distribution.

26 2. A program of work, not in conflict with regular schooling, to
27 repair damage to the victim's property, to provide community restitution or
28 to provide the juvenile with a job for wages. The court order for
29 restitution or monetary assessment shall specify, according to the
30 dispositional program, the amount of reimbursement and the portion of wages
31 of either existing or provided work that is to be credited toward
32 satisfaction of the restitution or assessment, or the nature of the work to

1 be performed and the number of hours to be spent working. The number of
2 hours to be spent working shall be set by the court based on the severity of
3 the offense but shall not be less than sixteen hours.

4 K. If a juvenile is committed to the department of juvenile
5 corrections, the court shall specify the amount of the monetary assessment
6 imposed pursuant to subsection G or H of this section.

7 L. After considering the length of stay guidelines developed pursuant
8 to section 41-2816, subsection C, the court may set forth in the order of
9 commitment the minimum period during which the juvenile shall remain in
10 secure care while in the custody of the department of juvenile
11 corrections. When the court awards a juvenile to the department of juvenile
12 corrections or an institution or agency, it shall transmit with the order of
13 commitment copies of a diagnostic psychological evaluation and educational
14 assessment if one has been administered, copies of the case report, all other
15 psychological and medical reports, restitution orders, any request for
16 postadjudication notice that has been submitted by a victim and any other
17 documents or records pertaining to the case requested by the department of
18 juvenile corrections or an institution or agency. The department shall not
19 release a juvenile from secure care before the juvenile completes the length
20 of stay determined by the court in the commitment order unless the county
21 attorney in the county from which the juvenile was committed requests the
22 committing court to reduce the length of stay. The department may
23 temporarily escort the juvenile from secure care pursuant to section 41-2804,
24 may release the juvenile from secure care without a further court order after
25 the juvenile completes the length of stay determined by the court or may
26 retain the juvenile in secure care for any period subsequent to the
27 completion of the length of stay in accordance with the law.

28 M. Written notice of the release of any juvenile pursuant to
29 subsection L of this section shall be made to any victim requesting notice,
30 the juvenile court that committed the juvenile and the county attorney of the
31 county from which the juvenile was committed.

1 N. Notwithstanding any law to the contrary, if a person is under the
2 supervision of the court as an adjudicated delinquent juvenile at the time
3 the person reaches eighteen years of age, treatment services may be provided
4 until the person reaches twenty-one years of age if the court, the person and
5 the state agree to the provision of the treatment and a motion to transfer
6 the person pursuant to section 8-327 has not been filed or has been
7 withdrawn. The court may terminate the provision of treatment services after
8 the person reaches eighteen years of age if the court determines that any of
9 the following applies:

- 10 1. The person is not progressing toward treatment goals.
- 11 2. The person terminates treatment.
- 12 3. The person commits a new offense after reaching eighteen years of
13 age.
- 14 4. Continued treatment is not required or is not in the best interests
15 of the state or the person.

16 O. On the request of a victim of an act that may have involved
17 significant exposure as defined in section 13-1415 or that if committed by an
18 adult would be a sexual offense, the prosecuting attorney shall petition the
19 adjudicating court to require that the juvenile be tested for the presence of
20 the human immunodeficiency virus. If the victim is a minor the prosecuting
21 attorney shall file this petition at the request of the victim's parent or
22 guardian. If the act committed against a victim is an act that if committed
23 by an adult would be a sexual offense or the court determines that sufficient
24 evidence exists to indicate that significant exposure occurred, it shall
25 order the department of juvenile corrections or the department of health
26 services to test the juvenile pursuant to section 13-1415. Notwithstanding
27 any law to the contrary, the department of juvenile corrections and the
28 department of health services shall release the test results only to the
29 victim, the delinquent juvenile, the delinquent juvenile's parent or guardian
30 and a minor victim's parent or guardian and shall counsel them regarding the
31 meaning and health implications of the results.

1 P. If a juvenile has been adjudicated delinquent for an offense that
2 if committed by an adult would be a felony, the court shall provide the
3 department of public safety Arizona automated fingerprint identification
4 system established in section 41-2411 with the juvenile's fingerprints,
5 personal identification data and other pertinent information. If a juvenile
6 has been committed to the department of juvenile corrections the department
7 shall provide the fingerprints and information required by this subsection to
8 the Arizona automated fingerprint identification system. If the juvenile's
9 fingerprints and information have been previously submitted to the Arizona
10 automated fingerprint identification system the information is not required
11 to be resubmitted.

12 Q. Access to fingerprint records submitted pursuant to subsection P of
13 this section shall be limited to the administration of criminal justice as
14 defined in section 41-1750. Dissemination of fingerprint information shall
15 be limited to the name of the juvenile, juvenile case number, date of
16 adjudication and court of adjudication.

17 R. If a juvenile is adjudicated delinquent for an offense that if
18 committed by an adult would be a misdemeanor, the court may prohibit the
19 juvenile from carrying or possessing a firearm while the juvenile is under
20 the jurisdiction of the department of juvenile corrections or the juvenile
21 court.

22 S. ~~The court shall order~~ IF a juvenile ~~who~~ is adjudicated delinquent
23 for a violation of section 13-1602, subsection A, paragraph 5, **THE COURT**
24 **SHALL ORDER THE JUVENILE** to pay a fine of at least three hundred dollars but
25 not more than one thousand dollars. Any restitution ordered shall be paid in
26 accordance with section 13-809, subsection A. The court may order the
27 juvenile to perform community restitution in lieu of the payment for all or
28 part of the fine if it is in the best interests of the juvenile. The amount
29 of community restitution shall be equivalent to the amount of the fine by
30 crediting any service performed at a rate of ten dollars per hour. **IF THE**
31 **JUVENILE IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF SECTION 13-1602,**
32 **SUBSECTION A, PARAGRAPH 5 AND IS ORDERED TO PERFORM COMMUNITY RESTITUTION,**

1 THE COURT MAY ORDER THE PARENT OR GUARDIAN OF THE JUVENILE TO ASSIST THE
2 JUVENILE IN THE PERFORMANCE OF THE COMMUNITY RESTITUTION IF BOTH OF THE
3 FOLLOWING APPLY:

4 1. THE PARENT OR GUARDIAN HAD KNOWLEDGE THAT THE JUVENILE INTENDED TO
5 ENGAGE IN OR WAS ENGAGING IN THE CONDUCT THAT GAVE RISE TO THE VIOLATION.

6 2. THE PARENT OR GUARDIAN KNOWINGLY PROVIDED THE JUVENILE WITH THE
7 MEANS TO ENGAGE IN THE CONDUCT THAT GAVE RISE TO THE VIOLATION.

8 T. For the purposes of this section:

9 1. "First time felony juvenile offender" means a juvenile who is
10 adjudicated delinquent for an offense that would be a felony offense if
11 committed by an adult.

12 2. "Repeat felony juvenile offender" means a juvenile to whom both of
13 the following apply:

14 (a) Is adjudicated delinquent for an offense that would be a felony
15 offense if committed by an adult.

16 (b) Previously has been adjudicated a first time felony juvenile
17 offender.

18 3. "Sexual offense" means oral sexual contact, sexual contact or
19 sexual intercourse as defined in section 13-1401."

20 Amend title to conform

and, as so amended, it do pass

ANDY BIGGS
Chairman

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4/10/08
H:jjb

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04/08/2008
12:14 PM
C: sp